

REMARKS

This is in response to the Office action dated October 27, 2004, in which claims 1-20 were rejected. The applicant has amended claims 1-7, 9-10, 12-16, and 18-20. The applicant requests that the Examiner consider the amendments and remarks herein and in light thereof allow claims 1-20.

CLAIMS 1-8, 15, AND 17-18 ARE NOT ANTICIPATED BY TSUBOI

Claims 1-8, 15, and 17-18 were rejected under 35 U.S.C. 102 due to U.S. patent 5,735,214 issued to Tsuboi. Of these, claims 1-7, 15, and 18 have been amended. The applicant believes that Tsuboi does not anticipate the subject matter of claims 1-8, 15, and 17-18 and that these claims are in patentable condition at this time. The applicant accordingly requests that the Examiner allow claims 1-8, 15, and 17-18.

Specifically regarding claim 1, this claim includes, for instance, the elements of the rail interface comprising an outwardly protruding flange disposed on a first axial end of the rail interface, the flange configured such that when the rail interface is operatively engaged with the first rail, the flange is operatively disposed along a side-wall on a side of the first rail, and as further defined by claim 1. Tsuboi does not disclose a rail interface comprising an outwardly protruding flange; nor does Tsuboi disclose such an outwardly protruding flange on an axial end of a rail interface; nor does Tsuboi disclose the flange being configured such that when the rail interface is operatively engaged with the first rail, the flange is operatively disposed along a side-wall of the first rail. Rather, Tsuboi was characterized in the Office action as disclosing a flange protruding inwards, rather than outwards, and between a top axial section and a lower axial section, rather than at an axial end of a wheel. Tsuboi also does not disclose a flange operatively disposed along a side-wall of the first rail, as a

side-wall of the rail is defined by plain meaning or by the lexicographic implications of the specification. The feature of Tsuboi characterized as a side-wall in the Office action is not a side-wall of the rail. As a further example, claim 1 defines the element of a support feature disposed on an upper surface of the body, configured to support a user thereon. Tsuboi does not disclose such a support feature element. The disclosure of Tsuboi is thus lacking in several elements defined by claim 1. The applicant therefore respectfully requests that the Examiner withdraw this rejection and allow claim 1.

Claims 2-8 are dependent on claim 1, and also incorporate the elements defined by claim 1 that are not anticipated by Tsuboi. Claims 2-8 further include additional elements that are also not anticipated by Tsuboi.

For example, claim 4 further defines the elements of the first wheel further comprising a second outwardly protruding flange disposed on a second axial end of the wheel, axially opposing the flange on the first axial end of the wheel, the second flange configured such that when the wheel is operatively engaged with the rail, the second flange is operatively disposed along a second side-wall of the rail diametrically opposing the first side-wall of the rail, and as further defined by claim 4. In contrast, Tsuboi does not disclose a wheel having a second outwardly protruding flange; nor does Tsuboi disclose such a second outwardly protruding flange configured such that when the wheel is operatively engaged with the rail, the second flange is operatively disposed along a second side-wall of the rail diametrically opposing the first side-wall of the rail. The features of Tsuboi characterized in the Office action as side walls simply cannot be defined as side-walls of the rail according to the definition in claim 4; the features in Tsuboi further do not include a second side-wall diametrically opposing a first side-wall of the rail.

Specifically regarding claim 6, this claim includes the elements of the rail interface comprising a guide bar, configured to slidingly contact a side-wall of the rail when the wheel is operatively engaged with the rail, as further defined in the claim. The Examiner based the rejection of claim 6 on an interpretation of the threaded stem 21 of Tsuboi as anticipating the guide bar element defined by claim 6. Claim 6 as amended is clearly not anticipated by the threaded stem disclosed in Tsuboi. For example, the guide bar element of claim 6 is defined in part as configured to slidingly contact the side-wall of the first rail when the wheel is operatively engaged with the rail. This simply is not anticipated by the threaded stem of Tsuboi, which was interpreted in the Office action as engaging the sidewall of the rail "by way of" the edge of the wheel. This is very different from slidingly contacting the sidewall.

Specifically pertaining to claim 7, this claim further includes the elements of at least a second wheel, rotatably mounted on the body at a lateral displacement from the first wheel, and configured to operatively engage with a second rail disposed at a lateral displacement from the first rail, the second wheel comprising an outwardly protruding flange on a first axial end of the second wheel, the flange of the second wheel configured such that when the second wheel is operatively engaged with the second rail, the flange of the second wheel is operatively disposed along a side-wall of the second rail. In contrast, Tsuboi does not disclose a second rail; nor does Tsuboi disclose a second wheel comprising an outwardly protruding flange on a first axial end of the second wheel; nor does Tsuboi disclose the flange of the second wheel being configured such that when the second wheel is operatively engaged with the second rail, the flange of the second wheel is operatively disposed along a side-wall of the second rail.

Specifically regarding claim 8, this claim includes the element of a sliding runner comprised in the rail interface, as further defined in the claim. Tsuboi simply does not disclose a sliding runner. Nor did the Office action include any specific allegation or mention of Tsuboi disclosing a sliding runner such as would be required to explain the rejection.

Due to the many elements defined by claims 2-8 by their dependency on claim 1 that are not anticipated by Tsuboi, and from their further individual limitations that are not anticipated by Tsuboi, a sample of which are discussed above, the applicant respectfully requests that the Examiner withdraw the rejection of these claims and instead allow claims 2-8.

Claim 15 includes elements not disclosed by Tsuboi, including, for example, a support feature disposed on an upper surface of the body, configured to support a user thereon; a track comprising first and second rails; the first and second rails being fixed in a substantially parallel disposition at a lateral displacement relative to each other; the first and second rails being fixed by at least one intermediate crosstie; the first and second wheels each including a first outwardly protruding flange; the outwardly protruding flanges being disposed on a first axial end of the first and second wheels, respectively; and the flanges configured such that when the first wheel is operatively engaged with the first rail, the flange of the first wheel is operatively disposed along a side-wall of the first rail, and such that when the second wheel is operatively engaged with the second rail, the flange of the second wheel is operatively disposed along a side-wall of the second rail; and as further defined by claim 15. Tsuboi does not disclose any of these elements defined by claim 15. The applicant therefore respectfully requests that the Examiner withdraw this rejection and allow claim 15.

Claims 17 and 18 are dependent on claim 15, and also incorporate the elements defined by claim 15 that are not anticipated by Tsuboi. Claims 17 and 18 further include additional elements that are also not anticipated by Tsuboi. For example, claim 17 includes the elements of the track comprising a lower surface that comprises a means for facilitating horizontal motion substantially laterally to the translational axis. Tsuboi simply does not anticipate these elements; nor did the Office action include any specific allegation or mention of Tsuboi disclosing a lower surface that comprises a means for facilitating horizontal motion substantially laterally to the translational axis, such as would be required to explain the rejection. Claim 18 further includes the elements of first, second, third and fourth wheels, each further including first and second outwardly protruding flanges on axially opposing first and second axial ends thereof. Tsuboi does not disclose the elements of first, second, third and fourth wheels each including first and second outwardly protruding flanges on axially opposing first and second axial ends thereof.

Due to the elements defined by claims 17 and 18 by their dependency on claim 15 that are not anticipated by Tsuboi, and from their further individual limitations that are not anticipated by Tsuboi, a sample of which are discussed above, the applicant respectfully requests that the Examiner withdraw the rejection of these claims and instead allow claims 17 and 18.

CLAIMS 9 and 19 ARE NOT RENDERED OBVIOUS BY TSUBOI AND PETERSON

Claims 9 and 19 were rejected under 35 U.S.C. 103 due to Tsuboi in combination with U.S. patent 6,076,838 issued to Peterson. Claims 9 and 19 have been amended. The applicant believes that claims 9 and 19 are in patentable condition at this time and that Tsuboi and Peterson do not render obvious the

subject matter of claims 9 and 19. The applicant requests that the Examiner accordingly allow claims 9 and 19.

Claims 9 and 19 include subject matter not disclosed by either Tsuboi or Peterson. For example, claims 9 and 19 both include the elements of a locking device that comprises a user interface and a brake, configured such that the user interface is accessibly manipulable by a user situated on the support feature to selectively engage or disengage the locking device, the locking device configured such that when engaged, the locking device applies the brake against the rail, thereby substantially fixing the creeper in a first translational position along the rail, and as further defined by the texts of claims 9 and 19, respectively. Neither Tsuboi nor Peterson discloses elements that anticipate elements such as these of claims 9 and 19. For example, there is no indication that either Tsuboi or Peterson teaches a locking device that includes a brake that is applied against a rail. Because elements required by claims 9 and 19 do not appear in either of the Tsuboi or Peterson references, claims 9 and 19 are not rendered obvious by Tsuboi and Peterson.

Additionally, Tsuboi and Peterson are from substantially different fields of art. As evidence thereof, there is no overlap in the classifications and fields of search of the Tsuboi and Peterson references. This is indicative that a person of ordinary skill in the art of one of the two references would not have considered investigating the field of art of the other as an analogous or reasonably pertinent source of knowledge for a particular problem. The Tsuboi reference is from the field of art concerned principally with conveying inanimate matter over fairly long distances in an automated industrial setting. This is widely disparate from the field of the Peterson reference, which is from the field of art principally concerned with mechanic's creepers actively used by an individual user on which to situate herself to aid her personal mobility, such as to slide underneath a

vehicle to perform maintenance and repairs thereon. While certain aspects picked from each field are not wholly dissimilar from each other, such an expansive test would unfairly widen the scope and contents of the prior art beyond the appropriate standard.

Additionally, even if the scope and contents of the prior art were fairly to include both Tsuboi and Peterson, Tsuboi and Peterson would still not render claims 9 or 19 obvious because there is no demonstrated suggestion or motivation to combine Tsuboi and Peterson, either explicitly in the references themselves, or more tenuously in the general knowledge of those in the relevant arts or in the nature of the problem to be solved. Demonstrating such a motivation is required to evaluate properly the differences between the prior art and the claims at issue. None of these possible sources of motivation to combine the two references has been demonstrated by a factual inquiry of objective evidence, as would be required to establish a showing of obviousness. This lack of motivation to combine references renders claims 9 and 19 of the present application non-obvious.

The post hoc pairing of the Tsuboi and Peterson references goes beyond any suggestion or motivation that one of ordinary skill in the arts of either reference would be alerted to in staying competently informed within her own specialty. A motivation ascribed alternately to a nebulous common knowledge in the art would not fairly represent the reality of two separate arts, each with its own community possessing its own unique common knowledge: one community of persons with ordinary skill in the art of guide systems for transporting inanimate material in automated industrial settings, who might consider Tsuboi well-known in their art; and a separate community of persons with ordinary skill in the art of mechanic's creepers for aiding the mobility of an individual user in tight spaces over very short distances, who might consider Peterson well-known in their art. A single individual who considered these two references from these

two disparate specialties well-known, would not be a person of ordinary skill in one art or the other, but rather a person of particularly extraordinary skills across a polymathic range of arts, compared to whose talent little if anything might not be obvious.

Claims 9 and 19 of the present application are therefore non-obvious, because Tsuboi and Peterson do not disclose all elements of claims 9 and 19 as amended, and because Tsuboi and Peterson are not from analogous fields of art, and because there is no demonstrated motivation why one of ordinary skill in the art of either Tsuboi or Peterson would have combined the two references. The applicant therefore respectfully requests that the Examiner withdraw this rejection and allow claims 9 and 19.

CLAIMS 10-14 and 20 ARE NOT RENDERED OBVIOUS BY TSUBOI AND BROOKS

Claims 10-14 and 20 were rejected under 35 U.S.C. 103 due to Tsuboi in combination with U.S. patent 4,895,380 issued to Brooks. Claims 10, 12-14, and 20 have been amended. The applicant believes that claims 10-14 and 20 are in patentable condition at this time and that Tsuboi and Brooks do not render obvious the subject matter of claims 10-14 and 20. The applicant requests that the Examiner accordingly allow claims 10-14 and 20.

Specifically, claims 10 and 20 as amended both include subject matter not disclosed by either Tsuboi or Brooks. For example, claims 10 and 20 include the elements of a yaw swivel coupling, coupled to the lower frame; and an upper frame, operatively coupled to the yaw swivel coupling, providing the capability for the upper frame to be yaw rotated about a vertical axis relative to the lower frame. Neither Tsuboi nor Brooks discloses a yaw swivel coupling. While the Examiner has interpreted subject matter of Brooks to disclose swivel couplings, this subject matter apparently relates exclusively to

a pitch-oriented swivel rather than a yaw swivel. Similarly, further pursuing this interpretation, the subject matter of Brooks still does not provide capability for an upper frame to be yaw rotated about a vertical axis, as opposed to pitch rotated about a horizontal axis, for example. Nor does Tsuboi provide any disclosure of such elements. Claims 10 and 20 therefore define subject matter including elements that are not disclosed by the combination of Tsuboi and Brooks. Tsuboi and Brooks therefore do not render obvious claims 10 and 20.

Claim 11 depends on claim 10, and therefore includes all the limitations of claim 10 in addition to its further elements. Claim 11 accordingly is not rendered obvious by the combination of Tsuboi and Brooks. Claim 14 has been amended to depend from claim 2, and claims 12 and 13 have been amended to depend from claim 14. Claim 14 has been amended to include, for example, the elements of first, second, third and fourth wheels that each further comprise second outwardly protruding flanges on second axial ends thereof, axially opposing first axial ends thereof. These and other elements of claim 14, and thereby of claims 12 and 13, are not disclosed by either Tsuboi or Peterson.

Additionally, as discussed above with reference to Tsuboi and Peterson, Tsuboi and Brooks are from non-analogous art relative to each other. Also as discussed above with reference to Tsuboi and Peterson, Tsuboi and Brooks do not provide any suggestion or motivation to combine elements from the two references, either explicitly, or from the common knowledge of those in the art of either reference, or from what is inherent in the problem to be solved. For these reasons, claims 10-14 and 20 are not rendered obvious by a combination of Tsuboi and Brooks under the proper tests of the scope and contents of the prior art or of the differences between the prior art and the claims at issue. The applicant therefore respectfully requests that the Examiner withdraw this rejection and allow claims 10-14 and 20.

CLAIM 16 IS NOT RENDERED OBVIOUS BY TSUBOI AND JOHNSON

Claim 16 was rejected under 35 U.S.C. 103 due to Tsuboi in combination with U.S. patent 5,711,227 issued to Johnson. The applicant believes that claim 16 is in patentable condition at this time and that Tsuboi and Johnson do not render obvious the subject matter of claim 16. The applicant requests that the Examiner accordingly allow claim 16.

For example, claim 16 has been amended to include first, second, third and fourth wheels each comprising an outwardly protruding flange on first axial ends thereof. Neither Tsuboi nor Johnson discloses the elements of outwardly protruding flanges on first axial ends of each of four wheels. Claim 16 also includes elements of claim 15 including, for example, a support feature disposed on an upper surface of the body, configured to support a user thereon. Neither Tsuboi nor Johnson discloses the element of a support feature disposed on an upper surface of the body, configured to support a user thereon.

Further, Johnson is another reference picked out of a non-analogous art relative either to Tsuboi or the present application, rendering the combination an unfairly expansive evaluation of the scope and contents of the prior art. Specifically, Johnson is from the field of art of moving motion picture cameras steadily while filming therewith. While Tsuboi and Johnson each share some elements in common with claim 16, to consider them together would be to evaluate the obviousness of each individual element, rather than of the invention as a whole as required. Protecting this proper scope of the test for the scope and contents of the prior art requires considering only analogous fields of art. The disparity between the fields of art of Tsuboi and Johnson, i.e. of a conveyor system for a fixed, automated industrial setting versus a collapsible and portable

dolly system for filming movies, is too great to be considered analogous.

Additionally, even if the scope and contents of the prior art were fairly to include both Tsuboi and Johnson, Tsuboi and Johnson would still not render claim 16 obvious because there is no demonstrated suggestion or motivation to combine Tsuboi and Johnson, either explicitly in the references themselves, or more tenuously in the general knowledge of those in the relevant art or in the nature of the problem to be solved. Demonstrating such a motivation is required to evaluate properly the differences between the prior art and the claims at issue. None of these possible sources of motivation to combine the two references has been demonstrated by a factual inquiry of objective evidence, as would be required to establish a showing of obviousness.

As further discussed above in reference to Tsuboi and Peterson, the disparity between the fields of art and the two references and the lack of motivation to combine the two references renders claim 16 of the present application non-obvious. That references from such disparate arts were required to collect the various elements included together in claim 16 indicates the true inventiveness behind the present invention. The applicant therefore respectfully requests that the Examiner withdraw this rejection and allow claim 16.

The applicant thereby respectfully requests that the Examiner allow claims 1-20.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.



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Respectfully submitted,

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